



## Appeal Decision

Site Visit made on 14 December 2020

**by Mr A Spencer-Peet BSc.(Hons) PGDip.LP Solicitor (Non Practising)**

**an Inspector appointed by the Secretary of State**

**Decision date: 22 December 2020**

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**Appeal Ref: APP/X1165/W/20/3259030**

**4 Berachah Road, TORQUAY, TQ1 3AX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Mr R & M Cawthorne & Ashcroft against the decision of Torbay Council.
  - The application Ref P/2019/1283, dated 28 August 2019, was refused by notice dated 9 March 2020.
  - The development proposed is Conversion of building into two single bedroom units with integral garages.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues are:
  - Whether future occupiers would be likely to experience acceptable living conditions in terms of amenity space provision; and,
  - The effect of the proposed development on highway safety.

### Reasons

#### *Living Conditions*

3. The appeal building is a somewhat dilapidated two storey commercial building which fronts onto Berachah Road. The immediate surrounding area comprises a mix of commercial and residential units. Planning history indicates that a number of commercial units within the area have been converted into residential dwellings. The proposed development is for two, one bedroom residential units, with no external amenity space being proposed.
4. The Council's first reason for refusal concerns the impact of the proposal on the living conditions of future occupants with regards to internal and external amenity space provision. Policy DE3 of the Torbay Local Plan 2012-2030<sup>1</sup> (the Local Plan) requires that development proposals provide a good level of amenity.
5. In terms of internal amenity space provision, Policy DE3 of the Local Plan confirms that adequate floorspace should be provided in residential development to achieve a pleasant and healthy living environment. The supporting text to this policy references the Nationally Described Space

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<sup>1</sup> Adopted December 2015

Standard and states that regard will be had to it when considering planning applications. Furthermore, while providing some flexibility, it is clear from the text of Policy DE3 of the Local Plan that it is expected that all new dwellings should aim to meet the minimum standards. Table 23 of the Local Plan provides details of the required minimum gross internal area for dwelling space standards, confirming that for a two storey one bedroom dwelling the minimum gross internal area should be 58sqm.

6. The evidence before me indicates that, following standard adjustments, the proposed western residential unit would have approximately 69sqm of internal floor space and the proposed eastern residential unit would have approximately 74sqm of internal floor space. Whilst I acknowledge the Council's concerns regarding ceiling heights in the proposed bedrooms, the proposal would accord with the development plan's requirements for internal space and, in my view, would provide acceptable living conditions for future occupants in this regard.
7. Notwithstanding the above conclusions regarding internal space provision, it is noted that no external amenity space is proposed for either proposed residential unit. In this regard, the supporting text to Policy DE3 of the Local Plan sets out that, as a guideline, a minimum of 55sqm of external amenity/garden space would be required. Furthermore, Policy THW4 of the Torquay Neighbourhood Plan (the TNP), requires that proposals provide at least 20sqm of external amenity space, and confirms that this excludes areas dedicated to car parking. As no external amenity space is being proposed, the appeal scheme would conflict with Policy DE3 of the Local Plan and Policy THW4 of the TNP in this regard.
8. It has been put to me by the Appellants that there are other developments in the immediate locality that also do not provide any dedicated external amenity space. In these respects, I have only been provided with the very limited information concerning planning application references regarding those other developments which have been permitted by the Council and, which it is maintained, did not provide any external amenity space.
9. The information provided in relation to development at 8-10 Berachah Road appears to include a copy of a site plan which indicates that space outside of the building envelope was included within the appeal site boundary. As noted above, I have only been provided with very limited information and from the details provided it is not possible to ascertain whether external amenity space was provided at 8-10 Berachah Road and if so, what the dimensions of that space were. Consequently, I am unable to draw a direct comparison between the referred planning permissions and this appeal proposal. I therefore give the examples very limited weight and it is necessary to determine this appeal on its merits in any event.
10. In summary of the above, whilst I have concluded that the internal space provision, in relation to both proposed units of residential accommodation, would result in acceptable living conditions for future residents, the absence of any external amenity area for the proposed units would be contrary to the requirements of the development plan. Consequently, the appeal scheme would not provide a good level of amenity overall and would, therefore, conflict with Policy DE3 of the Local Plan and Policy THW4 of the TNP.

### *Highway Safety*

11. Amongst other things, Policy TH9 of the TNP requires that housing developments meet the Local Plan guideline parking requirements unless it can be shown that there is not likely to be an increase in on-street parking arising from the development, or that the development is within the town centre and an easy walk of a public car park available to residents.
12. Policy TA3 of the Local Plan refers specifically to parking requirements and confirms that new development must make appropriate provision for parking spaces as set out in Appendix F of the Local Plan, which expects two car parking spaces to be provided per dwelling unit. Appendix F of the Local Plan further confirms that garages are only considered parking spaces where they meet the minimum standards of internal dimensions of 6 metres by 3.3 metres.
13. The appeal scheme includes provision of a single garage space for each unit. In this regard, the provision of a single garage space for each of the units, would fall below the requirements of Appendix F as described above. However, whilst I acknowledge the Council's indication that the appeal site is located outside of Torquay town centre, the site is nonetheless within convenient walking distance to the services, facilities and employment opportunities that the town centre provides. In this regard, I therefore conclude that the flexibility in terms of minimum parking space numbers as provided within Appendix F and within Policy TH9 of the TNP should be applied in this instance and, consequently, only a single parking space should be required in relation to each of the proposed units.
14. Further to the above, while I note the Council's contention that the proposed garages would be below the minimum internal dimension standards as provided within Appendix F, the internal area of the proposed garages would not be significantly below that standard. The garages would provide sufficient space for the parking of a car and would allow for sufficient circulation space for occupants to safely enter and exit vehicles within the proposed garages.
15. Notwithstanding the above, Policy TA2 of the Local Plan concerns development access and confirms, amongst other things, that development will be supported where vehicular and pedestrian access would be to a safe standard including a satisfactory standard of visibility.
16. In this regard, the proposed garages would be located directly adjacent to the highway and close to the junctions between Berachah Road, Waterloo Road and Ellacombe Road. By reason of the curvature present in Berachah Road as it approaches the junction with Ellacombe Road, vehicles emerging from the proposed garages in forward gear would have to occupy a significant portion of the width of Berachah Road before sufficient visibility in the direction of the junction was achieved. This unacceptable level of visibility would be significantly greater for vehicles which were emerging from the proposed garages in reverse gear.
17. Given the lack of sufficient visibility in the direction of the junction and given the relatively narrow nature of Berachah Road, it is likely, in my view, that the proposed parking arrangements at the appeal site would increase likelihood of conflict between vehicles, and between vehicles and pedestrians, within Berachah Road. This would be harmful to the free flow of traffic within

Berachah Road, including delivery traffic to the nearby commercial units, and would be harmful to highway safety.

18. In light of the above, while I have found that the proposed parking arrangements accords with the aims and objectives of the development plan with regards to number of parking spaces and their dimensions, thereby complying with the provisions of Policy TA3 of the Local Plan and TH9 of the TNP, the appeal proposal would not provide vehicular access to a safe standard with regards to visibility for vehicles emerging from the proposed garages. Consequently, the appeal scheme would conflict with Policy TA2 of the Local Plan.

### **Conclusions**

19. For the above reasons, whilst I have found that the internal amenity space at the proposed units and the number and dimensions of the proposed garages are acceptable, the appeal scheme would not provide sufficient external amenity space and would be detrimental to highway safety. Consequently, the appeal scheme would conflict with the development plan when taken as a whole and this weighs significantly against the proposal.
20. Weighed against this conflict, it is acknowledged that the proposal would improve the appearance of the appeal building and, thereby, would contribute to enhancing the character and appearance of the surrounding area. The proposed units would make a small contribution to local housing stock and would provide some very limited economic benefits in terms of employment during the conversion phase and through the spend of future residents within local businesses. Whilst I note that parking would be provided at the site, the parking arrangements are such that the scheme would be likely to compromise highway safety.
21. In my view, the limited benefits associated with the appeal scheme would not outweigh the harm identified in respect of future residents' amenity and with regards to highway safety. The proposed development would conflict with the development plan when taken as a whole and there are no material considerations that would lead me to reach a determination other than in accordance with the development plan. As such, the appeal should be dismissed.

*Mr A Spencer-Peet*

INSPECTOR